

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

The Applicants wish to thank the examiner for the courtesy extended to Applicants' representative undersigned pointed out that numerous errors existed in the office action of May 20, 2008 with respect to identification of cited and applied references. Regarding errors in the office action, the undersigned noted:

(1) Section 8 applies TR 25.890v1.2.0, but this reference is not listed on the PTO-892. Nevertheless, PAIR includes this document. Section 8 applies TSG-RAN Working Group 4 (Radio) meeting #25 R4-021533 Secaucus, New Jersey, USA, 11th - 15th November 2002, but this is not listed on the PTO-892 and is included in PAIR. The examiner indicated his supervisor would not issue a new office action because these references were clearly cited in Section 8 of the office action and were made available on PAIR. The Examiner stated that it does not matter that the references were not listed on the PTO-892.

(2) The PTO-892 misidentifies reference U as "Panasonic, R4-021453." Reference W is correctly identified as "Ericsson, R4-021453." The examiner stated that because reference U is not applied in any rejection, this error would not warrant a new office action.

The undersigned requested that a new office action issue correcting these errors and that period for response be reset based on the mailing date of the corrected Office Action. During the interview on June 4, 2008, the examiner refused to issue a new office action, but subsequently did in fact issue a new action dated June 24, 2008.

The specification has been amended to identify Applicants' priority application information, as suggested in the Office Action.

Claims 12-22 have been canceled in favor of new claims 23-33. Claims 23-33 have been drafted to avoid the rejection under 35 USC 112, second paragraph, applied to claim 13. Support for the amendments is provided for example in the original claims and page 10, line 21, through page 13, line 4, of the specification.

Claims 12-22 were rejected, under 35 USC § 103(a), as being unpatentable over TR (3GPP, Draft TR 25.890v1.2.0, R4-021538 "HSDPA, UE Radio Transmission and Reception," RAN WG4 meeting #25, Secaucus, NJ, USA, November 2002) in view of Qualcomm (Qualcomm, R4-021533 "VRC Test Approach," RAN WG4 meeting #25, Secaucus, NJ, USA, November 2002). To the extent these rejections may be deemed applicable to new claims 23-33, the Applicants respectfully traverse based on the points set forth below.

Claim 23 defines an accuracy testing apparatus that: (1) transmits test data to a communication apparatus, (2) establishes a transmission scheme for the transmission of packet data based on channel quality reported by the communication apparatus for the transmitted test data, (3) transmits packet data using the established transmission scheme, and (4) determines the accuracy of the channel quality, reported by the communication apparatus, for the transmitted test data based on a reported reception error rate of the transmitted packet data. The claimed subject matter provides an advantage of enabling determining the most suitable transmission scheme for packet data prior to its transmission and subsequently verifying the suitability of the transmission scheme (see specification page 4, line 23, through page 5, line 7). (References herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope

of the invention to the referenced embodiments.) The applied references fail to disclose the above-mentioned combined features of claim 23 and the benefits flowing therefrom.

As stated in the Office Action, TP discloses assessing a user equipment's (UE's) CQI, determining a coding rate scheme based on the CQI, and transmitting data using the determined coding rate scheme (see Office Action section 8, first paragraph) and Qualcomm discloses deciding a "requirement" of a reported value (CQI) based on a reception error rate of transmitted packet data (see section 8, second paragraph).

However, as disclosed in Qualcomm's Introduction section, TP's method cannot decide whether or not the accuracy of a CQI meets the "requirement" (see Qualcomm section 1, second paragraph). Therefore, although TP may disclose changing a coding rate scheme dynamically according to a CQI reported from a UE during a test (i.e., during measurement of a reception error rate of transmitted packet data), Qualcomm discloses using transmitted packet data of a fixed coding rate (i.e., "fixed CQI") regardless of the CQI reported from the UE during the test (see Qualcomm section 4, first paragraph).

Qualcomm does not disclose a method of selecting a fixed CQI that is needed to implement a CQI accuracy test. Instead, Qualcomm discloses using a common, fixed CQI for a UE that is a target of a test in a certain test environment (such as a fading model and interference level).

However, in a method of measuring the accuracy of a reported CQI using the common, fixed CQI, there is a problem that the fixed CQI is not optimum for all communication apparatuses. For example, the reception performance of a communication apparatus having an advanced receiver such as an equalizer and interference canceller is higher than that of a communication apparatus not having the advanced receiver, and so most of the reported CQI s are higher than the

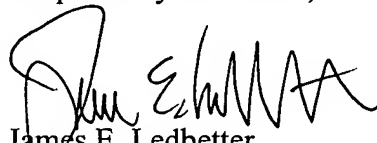
fixed CQI for a test. Therefore, there is a problem that an optimum transmission scheme is not selected according to the performance of a communication apparatus and samples enough for measuring accuracy cannot be acquired. Therefore, the test cannot be successful.

However, the Applicants' claimed invention addresses these problems. The claimed subject matter selects an appropriate transmission scheme according to the reception performance of a communication apparatus and measures the accuracy of a reported channel quality regardless of the reception performance of the communication apparatus.

Accordingly, the Applicants submit that TP and Qualcomm, considered individually or in combination, do not disclose or render obvious the subject matter defined by new claim 23. Independent claim 33 similarly recites the above-mentioned subject matter distinguishing apparatus claim 23 from the applied references, but with respect to a method. Therefore, allowance of claims 23 and 33 and all claims dependent therefrom is warranted.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

Respectfully submitted,



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